



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: DECEMBER 13, 2022

IN THE MATTER OF:

Appeal Board No. 625511

PRESENT: RANDALL T. DOUGLAS, MEMBER

The Department of Labor issued the initial determination holding the claimant ineligible to receive benefits, effective beginning October 11, 2021 and until the reason for your ineligibility no longer exists, on the basis that the claimant was not totally unemployed. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances by the claimant and on behalf of the Commissioner of Labor. By decision filed August 23, 2022 (A.L.J. Case No.), the Administrative Law Judge sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant is the sole-proprietor of a limited liability company that was launched in 2018 as part of the Self-Employment Assistance Program (SEAP). Her business is a direct-to-consumer e-commerce business which designs, manufactures, and sells a collection of handbags. From the time of its launch through the date of the hearing held on August 16, 2022, the claimant continued to operate her business and continued to meet monthly with a mentor/advisor provided through the SEAP program to discuss ways to grow her business. She worked an average of 5 hours per month in furtherance of this business responding to emails, inquiries and orders, and paying the bills. The claimant continued to operate this business in the hopes of making it a full-time endeavor while she also held full-time employment with a

technology company. She was laid off from the technology company in September 2021 and filed a claim for benefits on October 14, 2021.

OPINION: The credible evidence establishes that the claimant owns and operates an e-commerce business launched through the SEAP program. The claimant's credible, uncontroverted, and uncontested testimony establishes that she launched her business in 2018 as part of the SEAP program and that she maintained the business and met with the mentor obtained through SEAP continuously through the date of the hearing. Pursuant to Labor Law § 591-a

(2) (b) (i), the requirements relating to total unemployment are not applicable to individuals in the SEAP program. As such, individuals engaged in business activities as part of SEAP are considered totally unemployed for Unemployment Insurance purposes. As the requirements of lack of total unemployment are not applicable to the claimant as a business owner through the SEAP program, she cannot be disqualified from the receipt of benefits on the basis that she was not totally unemployed.

DECISION: The decision of the Administrative Law Judge is reversed.

The initial determination, holding the claimant ineligible to receive benefits, effective beginning October 11, 2021 and until the reason for your ineligibility no longer exists, on the basis that the claimant was not totally unemployed, is overruled.

The claimant is allowed benefits with respect to the issues decided herein.

RANDALL T. DOUGLAS, MEMBER